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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,985	11/14/2003	James E. Drake SR.	BLT1841	1527
30245	7590	08/24/2005	EXAMINER	
ANTHONY EDW. J CAMPBELL PO BOX 160370 AUSTIN, TX 78716			BRITTAIN, JAMES R	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/713,985

Applicant(s)

DRAKE, JAMES E.

Examiner

James R. Brittain

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 3-12 is/are allowed.
- 6) ☒ Claim(s) 13-15,17 and 20 is/are rejected.
- 7) ☒ Claim(s) 16 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Allowable Subject Matter***

The indicated allowability of claim 20 is withdrawn in view of the further review of the reference JP 2003-79417. Rejection(s) based on this reference follow.

Claims 1 and 3-12 are allowed.

Claims 16 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Drawing Objections***

The drawings are because they show the umbrella, which is now positively part of the claimed combination, in dashed lines that are used to signify that the umbrella is not being claimed in combination. Applicant is required to fill in the lines for the umbrella so as to show to a viewer that the umbrella is part of the claimed combination. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 13 and 14 are rejected under 35 U.S.C. §102(a) as being clearly anticipated by JP 2003-49417.

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JP 2003-49417 (figures 1-5) teaches the combination of an umbrella that can obviously be used outdoors with a ring 1, wherein the ring removably extends around the body of the umbrella to prevent the umbrella from opening, and a handle 2 that is fixable a coupled to the ring, and wherein the handle is utilized to place the ring on the umbrella. In regard to claim 14, the handle 2 comprises a rod like member and a handhold, wherein the rod like member extends between the ring in the handhold. This is shown in figure 5.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 17 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over JP 2003-49417.

JP 2003-49417 (figures 1-5) teaches the combination of an umbrella that can obviously be used outdoors with a ring 1, wherein the ring removably extends around the body of the umbrella to prevent the umbrella from opening, and a handle 2 that is fixable a coupled to the ring, and wherein the handle is utilized to place the ring on the umbrella. The difference is that the ring is not decorated by having ornaments fitted into cutout areas. However, decoration for aesthetic appearance is a common improvement and applicant is given Official Notice that the use of trim within openings of a ring for decorative purposes is well known in the art as a matter of improved aesthetic appearance. In regard to claim 20, JP 2003-49417 inherently teaches a method of securing an outdoor umbrella wherein the method comprises closing an umbrella such

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that the post and the ribs of the umbrella are folded together, positioning an umbrella retaining apparatus adjacent the end of the umbrella opposite the handle of the umbrella, wherein the umbrella retaining apparatus comprises a ring coupled to a handle, placing the ring about the end of the umbrella opposite the handle of the umbrella, and the sliding the ring until the inner diameter of the ring is commensurate with an outer surface of a cross-sectional circumference of the umbrella. The difference is that as shown in the figures of this publication, the umbrella is shown with the handle of the umbrella up. However to change the orientation of the umbrella so that the handle is down would have been obvious change in the orientation of the umbrella. It is common to close and secure an umbrella in multiple orientations so that this would have been within the ambit of one having ordinary skill in the art.

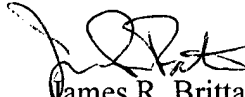
### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB